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January 25, 2003

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Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, S.W.
Washington, D.C. 20554

Re: MB Docket 02-277
MM Docket Nos. 01-235, 01-317, 00-244

Dear Ms. Dortch:

Hodson Broadcasting respectfully submits the enclosed Reply Comments for filing, in response to the Commission's 2002 Biennial Regulatory Review Notice of Proposed Rule Making (*FCC 02-249*, released September 23, 2002). Incorporated therein, Hodson has clarified its position pertaining to the Initial Regulatory Flexibility Analysis, responded to various commentator positions in the above-listed Dockets, without regard to the servicing provisions in Section 1.47 of the Commission's Rules, and formally addressed the release of the twelve Media Ownership Working Group Studies.

Pursuant to Sections 1.415(a) and (c), plus 1.419 of the Commission's Rules, please find attached an original (single-sided, paper-clipped), plus four copies of my company's pleading which pertain to the above-mentioned proceeding. Because this is a multiple docket rulemaking, I have reproduced an additional six replicas, to bring the total (two-sided, pursuant to §1.49(a)) duplicate number to ten. In conformance with the Regulatory Flexibility Act of 1980, Pub. L. No. 96-354, §2(a),(3), and (7), 94 Stat. at 1164, I humbly must waive the requested submissions to Linda Senecal, in the Industry Analysis Division, and Qualex International due to sole proprietary budget burdens, including e-mail difficulties and excess multiple mailing restraints. Please see that alternate provisions are instituted in the event these two entities truly indeed require extra copies of Hodson's included Reply Comments information package.

Thanks Marlene, for all your attention, time, and concern in this very important matter.

Sincerely,

Richard Dean Hodson

Richard Dean Hodson, d/b/a/
Hodson Broadcasting

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Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

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In the Matter of	)	
2002 Biennial Regulatory Review - Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996	)	MB Docket No. 02-277
Cross-Ownership of Broadcast Stations and Newspapers	)	MM Docket No. 01-235
Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets	)	MM Docket No. 01-317
Definition of Radio Markets	)	MM Docket No. 00-244

REPLY COMMENTS - Table Of Contents

Section *Page*

I. Introduction

Hodson Broadcasting, a sole proprietorship formed by Richard Dean Hodson (hereafter called "Hodson"), pursuant to Sections 1.415, 1.419, and 1.49 of the Commission's Rules, respectfully submits the following "Reply Comments" in response to the perpetual *Notice of Proposed Rule Making* in the above-captioned proceedings.[1] Hodson has previously presented input and advise in MM Dockets 00-244, Definition of Radio Markets, and 01-317, Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets, when these two rulemakings were consolidated on November 8, 2001.[2]

Because of incredible document overload and time constraints, Hodson must neglect regulation revision participation pertaining to the Consumer & Governmental Affairs Bureau (CG Docket 02-311), Wireline Competition Bureau (WC Docket 02-313), International Bureau (IB Docket 02-309), Wireless Telecommunications Bureau (WT Docket 02-310), and the Office of Engineering and Technology (ET Docket 02-312), that were loosely attached to this instant *NPRM* undertaking.[3] Hodson concentrates instead to develop and submit further suggestions to the Commission within seven sections, as outlined in the supra table of contents and grazed in this overview introduction.

Section 2 responds to the eternal *NPRM* with Hodson's unique perspective,

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[1]The *Notice* was released September 23, 2002 (*FCC 02-249*). The *NPRM* directed that interested parties may file comments 60 days after Commission release of the Media Ownership Working Group Studies, and reply comments 90 days after Commission release of the Media Ownership Working Group Studies. The Media Ownership Working Group Studies were released on October 1, 2002 (*DA 02-2476*), establishing dates of December 2, 2002, and January 2, 2003, respectively. *DA 02-2989* (released November 5, 2002) ordered each filing period a thirty day extension. Comments are now due January 2, 2003, and reply comments by February 3, 2003. Thus, the instant reply comments are timely filed.

[2]66 FR 63986, December 11, 2001. (*FCC 01-329 & 00-427*). See also: Comments and IRFA Comments of Hodson Broadcasting, submitted February 16, 2002, and received at the Commission on February 28, 2002. Please consult the Commission's Electronic Comment Filing System.

[3](*FCC 02-265, FCC 02-267, FCC 02-263, FCC 02-264, & FCC 02-266*) respectively.

imparting empirical, professional, and personal data throughout. This revised omnibus *NPRM* encompasses an overwhelming amount of issues and inquiries that cannot be decently or adequately addressed in a single comment session, regardless of the time duration. However, Hodson will earnestly and diligently cover ground not tilled prior, plus rehash and clarify certain particular points that were originally presented for this proceeding in its former February filing, which should not be conveniently lost or forgotten in this rulemaking proposal's paperwork shuffle. Reply comment simplification shall be accomplished by reduced citations and footnotes wherever possible, thus inducing more fluid readability for a majority of the Commission's staff and legal advisors, or any other interested public industry or lay persons.

Section 3 tackles the twelve Media Ownership Working Group (MOWG) Studies. Although these random reports and associated appendices took several weeks to decently digest and dissect, Hodson has nevertheless opined each individually. The planned purpose was to highlight and critique various portions of the reports that created cranial cancer over the multi-week period. Hodson was initially dismayed to observe that in several MOWG studies, agency staff blatantly and relentlessly reappearing as co-authors. Talk about lacking source and viewpoint diversity! Naming Commission infringers would include Peter Alexander (Radio Market Structure and Music Diversity, A Theory of Broadcast Media Concentration and Commercial Advertising), Keith Brown (Consolidation and Advertising Prices in Local Radio Markets, Radio Market Structure and Music Diversity), Jane Frenette (A Comparison of Media Outlets and Owners for Ten Selected Markets: 1960, 1980, 2000, The Measurement of Local Television News and Public Affairs Programs), Scott Roberts (A Comparison of Media Outlets and Owners for Ten Selected Markets: 1960, 1980, 2000, The Measurement of Local Television News and Public Affairs Programs, Radio Industry Review 2002: Trends in Ownership, Format and Finance), and George Williams (Consolidation and Advertising Prices in Local Radio Markets, Radio Industry Review 2002: Trends in Ownership, Format and Finance, Radio Market Structure and Music Diversity). Enough recurring personnel themes until we delve deeper into this section.

Section 4 will enlighten and inform the Commission on Senate Bill 2691, introduced during the 107th Congress by United States Senator Russell D. Feingold (Democrat - Wisconsin). This straightforward Bill, presented on June 27, 2002, and cited as the "Competition in Radio and Concert Industries Act of 2002", proposed to amend the Communications Act of 1934 to facilitate an increase in programming and content on radio that is locally and independently produced, to facilitate competition in radio programming, radio advertising, and concerts, and for other purposes. Hodson will examine the Congressional Record, as well as other provisions of this Bill, plus reflect upon the Senator's June 13th and 27th investigative statements and convicting beliefs that initiated his heartfelt legislative creation.

Section 5 provides a subjective critique of various commentators positions, without regard to reply comment service criteria set forth in 47 C.F.R. § 1.47(d). Hodson will utilize pertinent archived comments supplied through the Commission's Electronic Comment Filing System (ECFS), in chronologically ascending order. Since the database contains numerous submissions, quote citations will be restricted to an uncomplicated ECFS date and page scheme in parentheses for reference ease.

Section 6 readdresses the Initial Regulatory Flexibility Analysis. The former Hodson comment filing in this matter (February 2002), prepared separate and distinct titled IRFA Comments from the standard Comments, as requested by the Commission. Because Hodson has prior shown the Commission that this entity qualifies as an independent small business as defined in 15 U.S.C. § 632 and 13 C.F.R. § 121.201 (NAICS Code 513112), it should be quite unnecessary to isolate this further IRFA response, in light of the sectionalized nature of this instant pleading.

Finally, in Section 7, Hodson will conclude its position and strongly admonish the Commission for both change and action. This summary shall not exclusively evaluate all Hodson's beliefs, and many fair and practical alternatives analyzed and represented would be bypassed or shortchanged without a comprehensive reading. This case's very large record, plus the enormous number of Commission-addressed ongoing issues, make it very tempting to just "take someone else's word for it" and forgo the details, assuming another truly read it. Please don't let that prevail for this submission.

II. Notice of Proposed Rulemaking Response

Foremost, Hodson must convey disappointment, disgust and dismay that the Commission did not attempt to even nominally alleviate longstanding issues before initiating MB Docket 02-277, the 2002 Biennial Regulatory Review. Almost three years have elapsed since the original spawning of this *NPRM*, which set out to define radio markets,[4] look into "daisy-chain" overlap contour methodology, and related multiple double standard marketplace criteria loopholes, which artificially inflate the number of radio broadcast facilities within various communities around the nation. Although combining MM Docket 01-317, Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets[5], appeared practical thirteen months ago, this latest omnibus *NPRM* smells suspiciously of a politically correct procedure to apathetically delay overdue decisions and unjustly cater to avaricious corporate broadcasting giants. Various District of Columbia Circuit appeals in *Fox*, *Sinclair*, and *NPR*[6], have negligently paralyzed the Commission into untimely regulatory inactivity, which certainly doesn't improve public perception or welfare. The general public has steadfastly been inclined to believe television and radio media conglomerates are continuously and relentlessly lobbying Washington with soft money and secret promises for a certain Commission agenda. The Nancy Victory wireless phone reception party ethical scandal is a vivid example of this political corruption.

After repeatedly and thoughtfully deliberating the Commission's latter *NPRM* and related case cites, it is seriously evident that general over-the-air broadcasting is at a crucial crossroads. This properly presented procrastination proceeding, better known as the broadcast ownership and market definition matter, from its long-lost

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[4] 15 FCC Rcd 25077 (2000)

[5] 16 FCC Rcd 19861 (2001)

[6] *Fox Television Stations, Inc. v. FCC*, 280 F.3d 1027, *rehearing granted*, 293 F.3d 537 (D.C. Cir. 2002). *Sinclair Broadcast Group, Inc. v. FCC*, 284 F.3d 148 (D.C. Cir. 2002), rehearing denied August 13, 2002. *National Public Radio, Inc. et al., v. FCC*, 254 F.3d 226 (D.C. Cir. 2001). See also: Report No. AUC-01-37-H, DA 01-2148 (released September 14, 2001).

onset in 2000, has unequivocally acquired a hardy and haggard reputation of more bark than bite, which truthfully benefits only the bureaucratic broadcasting businesses. Every passing month that a correct Commission decision has been delayed, these consolidated companies carelessly remove themselves further and further from their community's interests and instead focus more on their bank account interests. Combine that apathetic agency attitude with an unhealthy dose of paranoid public perception, and an unfruitful and unwanted position thus develops.

Although many various telecommunication advancements have materialized in the last thirty-five years, Frequency Modulated radio broadcasting theory and practice, disregarding the spectrum shift from 42-50 MHz (June 1940) to 88-108 MHz (July 1945), has endured basically intact since its inception by Major Edwin H. Armstrong. Hybrid IBOC innovations may seemingly tantalize, but the speaker output to human ear will always physically remain analog. Satellite Digital Audio Radio Services, XM and Sirius, may seem like a unique novelty for those select few whom can afford additional monthly subscription fees and strongly wish to impress others needlessly, but for the majority of the common citizenry, they are very content just to even have a vehicle, provided their budget will allow for car payments, registration, insurance, repairs, gasoline, etc. Many commuters would instead utilize compact discs or cassettes before installing after market satellite receivers and antennas in their transportation. The expanded band for AM provides some extra spectrum availability, and UHF television was offered similar for many years to accommodate broadcasters, until supply outweighed demand. Network broadcast television has evolved from black and white to color, from analog to digital, and from over-the-air to cable and satellite delivery methods. Each step along this TV evolution has historically provided offspring opportunities for businesses and broadcasters alike within the industry, plus public interest, convenience, and necessity benefits in the form of clearer and wider reception outside the industry.

Before addressing the myriad of topics enveloped in this eternal *NPRM*, Hodson should resurrect important aspects from its earlier presentation in this rule making matter. To further assist the Commission in defining radio "markets", Hodson has previously proposed that a mixture of various ideas be implemented. Because radio's propagation characteristics and current "daisy-chain" overlap contour methodology create a difficultly in categorizing broadcast markets for evaluation in ownership or other issues, a combination of private and commercial radio market research and information services and statistics, such as Arbitron, BIA Financial Network Inc./BIA Publications Inc. various industry data bases, Broadcast and Cable Yearbook, Office of Management and Budget's Metropolitan Statistical Areas ["OMB's MSAs", 55 Fed. Reg. 12154-12160 (1990)], M Street Radio Directory, and SRDS Radio Advertising Source (published quarterly) should be utilized harmoniously to create a balance of reporting agencies, which the Commission could then effortlessly draw upon and compare with their own market data base when diversity, competition, or localism issues arise. By relying on multiple research sources, a founding principle for any successful business, bias and inconsistencies which are possible with only a single information outlet can be eliminated. Congested spectrum areas that cannot seem to be easily defined, such are located within Zone criteria[7] established by the Commission, could rely on county or local government boundaries to determine tricky fragmented and combined listener or viewer areas. Once basic Commission market definitions have been established, the number of stations in defined markets would only fluctuate if a new signal signed on or went dark, or was repetitively reported over time by at least two different radio or television market or audience research agencies. An aural broadcast station should strongly be considered also "in the market" if its signal receivability measurements, 5 mV/m for AM and 3.16 mV/m for FM, demonstrate that at least 50% of the geographical market area in question has this characteristic coverage strength, regardless of actual transmission location or community of license of such facility. Any remaining shortcomings, which would mainly reside in smaller, clustered, or undefined markets, could then be addressed more adequately through a revised percentage approach as noted infra. Replacing flawed signal contour overlap with multiple radio market research and information source methodology will correct

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[7] 47 CFR § 73.609(a) for TV Zones and § 73.205 for FM Zones.

many current inconsistencies plus more accurately reflect stations actually audible within a particular radio market.

Hodson adamantly suggests in ***any*** **size** market tier, audience share percentage should never exceed 33% (one third) of the total radio or television audience, and revenue share percentages would be modified from the "50/70 Rule", to become the "40/75 Rule", enabling two group entities within any given market to control an extra five percent between them in potential advertising capital. Figures above the modified percentile levels in either case would be denied immediately in any type of license assignment or transfer of control application because of antitrust and anti-competitive concerns harmful to the public welfare. Hodson also strongly recommends that ***every*** entity that possesses ***any*** Commission license or permit must be required to maintain, operate, or develop their facility for a minimum of TWO YEARS before being allowed to transfer, sell, or otherwise profit, to ensure procedural and ethical integrity of corporate broadcasting assignments and transfers. From January 1962 until 1982, the Commission had a very worthy rule (47 CFR § 1.597)[8] against this type of license "trafficking", where a broadcast entity was actually mandated to cultivate the license or permit for a three year minimum before an assignment or transfer would even be considered. Compare: *FCC v. National Citizens Committee for Broadcasting*, 436 U.S. 775, 813 at note 32 (1978).

Concerning the tiered approach on local radio ownership caps[9], Hodson will reiterate its improved six-tier formula explained below:

(A) in radio markets defined with ten or less stations, an entity may own, operate, or control up to three commercial radio stations, not more than 2 of which are same

[8]This Commission Rule is now codified at 47 CFR § 73.3597. ¶(a) implies transfer and assignment applications could technically be tendered anytime, but if the licensee or permittee operated such station for less than one year, then an issue hearing shall be designated, unless application meets certain criteria further set forth. See also: *Elimination of Three Year Rule and Underlying Anti-Trafficking Policy*, 52 RR 2d 1081 (1982), reconsidered in part, 99 FCC 2d 971 (1985).

[9]See: Local Radio Diversity-Applicable Caps, Telecommunications Act of 1996, Pub. L. No. 104-104, §202(b)(1), 110 Stat. 110 ("1996 Act").

service facilities (AM or FM).

(B) in radio markets containing between 11 and 20 (inclusive) stations, a party may own, operate, or control up to four commercial radio stations, not more than two in the same service (AM or FM).

(C) in radio markets containing between 21 and 30 (inclusive) stations, a party may own, operate, or control up to five commercial radio stations, not more than three in the same service (AM or FM).

(D) in radio markets containing between 31 and 40 (inclusive) stations, a party may own, operate, or control up to six commercial radio stations, not more than 3 in the same service (AM or FM).

(E) in radio markets containing between 41 and 50 (inclusive) stations, a party may own, operate, or control up to seven commercial radio stations, not more than four in the same service (AM or FM).

(F) in radio markets containing 51 or more stations, a single entity may own, operate, or control up to eight commercial radio stations, not more than 4 in the same service (AM or FM).

This six-tier local ownership cap approach, opposed to the current four tier, offers a compromise between Congressional guidelines and public interest concerns of reduced station levels within each tier. This practical alternate system would still allow eight stations in the top tier, yet provide a better market breakdown in the smaller station tiers. To effectually enact this modified tier system, the Commission must repeal the contour overlap methodology to eliminate the daisy-chain "loophole" that has become the prime culprit that artificially inflates market size.

Hodson again adamantly and earnestly urges the Commission, although contrary to §202(a) of the 1996 Act, that the national radio broadcast ownership caps be restored, yet revised with limitations more flexible than former Commission national cap policies have held.[10] With current consumer choices being quite plentiful for those

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[10] See: *United States v. Storer Broadcasting Company*, 351 U.S. 192 (1956) (U.S. Supreme Court upheld Commission regulations placing limitations on the total number of stations in each broadcast service an entity may own or control).

comfortable and fortunate enough to afford them, compromise for radio broadcasters who wish to expand outside their local markets should always be encouraged, within watchful moderation and regulation reason. To meet this feasible objective, but always being strongly mindful of quasi-monopolistic spectrum availability in most major media markets, Hodson restates the efficacious "100 AM/100 FM" rule, which would permit one group entity to control up to and including 100 AM and 100 FM individual broadcast licenses nationwide. Obviously, the next inquiry becomes what to do with individual broadcast licenses exceeding the percentage or numerical limits described supra. Any "grandfathered" group facility transfer scenario would only offer large-scale broadcasters an "exit strategy" remedy and would not reduce the consolidated condition present in a majority of top 100 radio markets. When a broadcast company's motive is more directed toward return on investment than serving their communities, that licensee has effectually disregarded their public interest responsibilities.

A very viable divestiture program can be instituted to accommodate those three corporate licensees, Clear Channel (divest 956, using March 2002 numbers), Cumulus (divest 51), and Citadel (divest 6), that need to comply with updated national or local ownership limits, and revenue or audience share caps, whether numerical or percentile.[11] Because these licensees warrant pruning to conform, the Commission would evaluate each conglomerate's presence in offending local radio markets, along with the class and power of each station license possessed. The Commission would identify the signal strengths within the group's market combination, then determine divestiture order, starting with the group's lowest (Class A) or weakest signal of their

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[11]See: FCC Eleventh Annual Report 12 (1946); Multiple Ownership of Standard Broadcast Stations, 8 Fed. Reg. 16065 (1943); *Multiple Ownership of AM, FM and Television Broadcast Stations*, 18 F.C.C. 288, at 292 (1953) (quoting *FCC v. National Citizens Committee for Broadcasting, supra*, at 812). The U. S. Supreme Court has previously upheld in *FCC v. Pottsville Broadcasting Company*, 309 U.S. 134, 137-138 (1940), that when shaping prospective rules, flexible divestiture policies, amongst other diversification goals, is an adaptive and reasonable administrative response to new or changed circumstances within the broadcasting industry. Moreover, in *FCC v. National Citizens Committee for Broadcasting, supra*, at 803, the U. S. Supreme Court overturned the Court of Appeals and opined, "We believe that the limited divestiture requirement reflects a rational weighing of competing [Commission] policies."

holdings within that market and working upward, regardless of the signal's current audience or revenue share, until the local ownership level corresponds with applicable limits. Because public demand for FM spectrum is higher than AM, AM facilities would be last in divestiture order, only required in the event a group owner still needed to conform after releasing interest in all market FM's, which would be highly unlikely. Once the licenses are identified for each company affected, the Commission will allow a twelve to eighteen month "transfer and transition" period to permit only *individual license* transactions to qualified buyers, even if infraction involves several broadcast licenses, controlled by one entity, within a single radio market. After the "T&T" period, any remaining illegitimate licenses would be forfeited to the Commission, and a Radio Broadcast Divestiture Auction, similar in nature to the standard FM Radio Broadcast Auction, would be conducted within a six to eight month time period. Most markets requiring divestiture already are quite congested within the broadcast spectrum, thus would very likely nullify any concerns about temporary loss of service for certain active allocations during the forfeiture and divestiture auction period.

Empirical data pertinent to the Las Vegas radio market is also very plentiful. Hodson produced Exhibit C in its February 2002, submission, which depicted Las Vegas' radio station market data charts, circa 1991 and 2001, to factually demonstrate this region's intense radio broadcast market consolidation over the last decade. Conglomerate groupings were listed first, in descending order, with the remaining facilities tabulated by the year they originally commenced broadcast operations. It is quite interesting to observe from the 2001 chart, that not one commercial FM station remains independent in the Las Vegas market as a direct result of broadcast consolidation mergers. Hodson will again provide radio broadcast market data for Las Vegas, Nevada. The Las Vegas metro consists mainly of one Nevada county: Clark. The resident population of the Las Vegas region is estimated to be 1,218,300 individuals and ranks as the 41st largest radio market.[12] Broadcast and Cable Yearbook attributes 29 total radio stations to their 40th ranked Las Vegas market, estimating a

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[12]SRDS Radio Advertising Source; Vol. 84, No. 1 (Winter 2002)

1,406,900 population.[13]

Multifaceted changes in the Las Vegas radio market have occurred over the last decade due to group consolidation of individual broadcast licenses. Most notably, purchase prices of FM stations within the Vegas valley more than tripled within a one year period. Highlighting various outrageous examples,[14] KBGO-FM was purchased in August 1993, by Broadcast Associates Inc. for $2.25 million. In August 1994, Regent Communications Corp. bought KSNE-FM for $7.5 million. Another outlandish case contrasts a trio of AM/FM transactions. Lotus Communications acquired KORK-AM/KXPT-FM in November 1992 for $1.42 million. In September 1994, just two years later, KFMS AM/FM was transferred to Regent for $7.75 million. When American Radio Systems entered the market during 1996, they added to the price inflation, paying $10 million for KXNO-AM/KLUC-FM in July. An AM standalone evaluation reveals KKVV sold for $17,000 in November 1993. By September 1996, KSHP found a $600,000 buyer, which is over *thirty-five times* the amount paid for a Las Vegas AM just three years prior. Figures like these make it simple to understand why a very small, independent broadcaster always encounters prohibitively high entry barriers when attempting to purchase an existing facility in today's top 40 radio marketplace.

Further analyzing traditional market power and revenue shares in Southern Nevada depicts dismal discoveries. Utilizing the Herfindahl-Hirschman Index (HHI), where numbers below 1000 would be considered unconcentrated, 1000-1800 are deemed semi-concentrated, and above 1800 are regarded as very highly concentrated markets. In 1993, Las Vegas had an understandable Radio HHI of 748, and the top four Local Commercial Share (LCS) owners combined for 41.6%. By 2001, this desert valley's HHI Index almost *tripled* to an astonishing figure of 2130, as these top quad LCS radio broadcasting giants unbelievably scrooged 86.1% of the revenue. Contrasting these same four bulldozing aural broadcasters Average Quarter-Hour

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[13]2001 Edition, pgs. D-722, D-727, D-729.

[14]All transactions listed as examples are from Broadcasting and Cable Yearbook 1997, Volume 1, pp. B-278-79.

(AQH) Arbitron ratings with their company's LCS percentages, there is in descending order: Infinity - 26.2, 30.6%; Clear Channel - 20.3, 27%; Beasley Broadcast Group - 15.0, 17.2%; and Lotus Communications Corporation - 10.6, 11.3%, respectively. Knowing that statistical numbers fluctuate periodically, WOW Weekly recently depicted these four duplicate Las Vegas broadcast market revenue percentage owners as: Infinity - 34%; Clear Channel - 27%; Lotus - 15%, and Beasley - 12%, leaving eleven remaining radio owners in town frantically attempting to menially divide approximately twelve percent of leftover advertising pie just to survive. Interpreting these four group radio operators audience share, they claimed a total AQH Fall 2001 of 72.1, which translates into 82.5% of the entire radio listeners in Southern Nevada for that rating period.[15]

During Hodson's seventeen year radio broadcast career in Southern Nevada, many professional observations have surfaced. In 1996, Hodson witnessed one broadcast employer, who operated a commercial FM broadcast license for Pahrump, Nevada, that never once addressed a public affairs or interest issue within their community of license, instead focusing their marketing on the Las Vegas market during its brief one year ownership. This company then transferred licensee rights to American Radio Systems later that year for around $12 million. Inside the industry, group consolidations have severely hurt station programming and personnel. Corporate broadcast unification strategy has resulted not only in operational cutbacks, but dramatic staff reductions as well. Between recent facility cohabitation efficiencies and computer technological advancements, forty-four percent of all radio broadcasters in Nevada have been displaced since 1992. Since three or four (or more!) individual broadcast licenses are now under one roof with consolidated operations in Las Vegas, general and upper management, along with the engineering, production, and promotional departments, which were previously held by three or four different people for each position at each facility, are handled currently by only one person that does those three or four similar jobs under a united title. Many group stations have chosen

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[15]Investing in Radio 2001, BIA Publications, Inc. (3rd Edition); R & R "Directory", Vol.1, 2002, Radio & Records Inc.; Who Owns What, 30 December 2002, p. 3.

prerecorded voice tracking, using computer automation software over live announcers, for their programming between 7:00 p.m. to 6:00 a.m. Because client advertising needs have developed into "one-stop selling platforms", individual sales staff have devolved from perhaps a half dozen per licensee in 1996, to as little as the same number (six or less) for a four station group combination today, meaning that department now only needs one quarter (25%) of its former salespeople.

Outside the industry, radio listeners have immensely suffered and felt the effects of group consolidation in the Las Vegas market. In most medium and major post-merger radio markets, and Vegas is no exception, there are usually three or four "power combo" entities backed by national broadcast conglomerates. Each power combo may control perhaps four to six stations, and thus will program a similar number of different formats for advertiser convenience and so-called listener variety. A serious problem develops when every group combination wants to only format one of each of the top four or so types of programming. What results is the following market example: four alternatives, four CHR's, four countries, four modern rockers, four oldies, four sports, four talkers, etc., dependent on the total number of radio stations to format within any given area. Advertising and ratings concerns seemingly justify these mega-broadcaster's corporate apathetic actions and deceitful decisions; meanwhile, listener variety suffers unquestionably and format selection is hampered considerably. Hodson vividly recalls within just the last few years to date, that out of 19 FM stations in or near the Vegas metro, 13 were only airing current music (released within the last 15 months) of certain select formats. Hodson also recognizes that general Commission policy is to promote format diversity through market forces, although the United States Supreme Court has not stood united on this policy position.[16]

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[16]*FCC et al. v. WNCN Listeners Guild et al.*, 450 U.S. 582 (1981); *Red Lion Broadcasting Company v. FCC*, 395 U.S. 367, at 390, 395 (1969) (Court held that Commission does not transgress First Amendment in interesting itself in general program format and kinds of programs broadcast by licensees. Moreover, First Amendment principles would support format review as requested by listeners, for the Court stated, "[i]t is the [First Amendment] right of the viewers and listeners, not the right of the broadcasters, which is paramount.") (quoting *FCC et al. v. WNCN Listeners Guild et al., supra*, at 619-20, n. 38). See also: *Memorandum Opinion and Order*, 60 F.C.C. 2d 858 (1976), reconsideration denied, 66 F.C.C. 2d 78 (1977).

Television in Southern Nevada doesn't fare any better. Hodson subscribes to both cable (Cox Communications) and satellite (DirecTV) within the Las Vegas valley, and thus can comment on each from consumer and professional experience. These privileged utilities charge approximately thirty-five dollars apiece monthly for basic service, and they both possess shortcomings. Either service is really only designed to elevate a household from single digit (less than 10 channels) viewer choices, to more than several dozen plus viewing choices, excluding pay-per-view, premium or music channels, and other broadband type services. Although a majority of "non-traditional" (i.e. CNN, ESPN, MTV, USA, etc.) network programming is available with either service, you basically get whatever the cable or satellite head end chooses to carry and deliver, unlike the early satellite days before descrambler receivers and minidishes became the norm.

Prime time rerunning and general repurposing has become rampant on various non-traditional networks. The Travel Channel, The Learning Channel, The History Channel, TNT, Sci-Fi Channel, Game Show Network, and Discovery's multi-block Theme Channels, are simply a short list of guilty offenders. The various methods Hodson has routinely observed for repeating programs during prime time is twofold. If the off-broadcast feed is running a pair of movies for the evening, it will rerun these two movies again immediately and thus occupy an eight-hour block for the night, assuming the feature is the standard two hours. Another avenue of program rehash utilizes three one-hour (or two half-hour) show blocks, regardless of the category type. This trio block originally airs, then the exact same triple hour of episodes replay in the same order during the same evening for a six-hour period, usually between 9:00 p.m. - 3:00 a.m. EST. One may question, so what if cable or satellite channels do this, even if it is virtually every night? Don't they have the right to offer the programming they choose to consumers, even if it is repeated from earlier in the evening? Doesn't the consumer have enough choices so that if he or she is not satisfied or content with what they are watching, they can just tune to another selection or turn off the television entirely? Please read on for more answers...

From a consumer perspective, an average of 40% of audiences in various

Nielsen markets rely exclusively on over-the-air reception for television, because of economic and/or technologic conditions. Although a reasonable amount of households are within the cable penetration threshold, these citizens simply do not earn substantial enough wages to allow this extra monthly payment into their already overburdened budgets. An enormous number of family homes across the country are just trying to survive and make ends meet, as recent public statistics and surveys are constantly revealing. With increasing financial offspring responsibilities plus a plethora of parent's *two* (some families have only one parental wage earner) income annual salaries of under $40,000, attempting to just concentrate on bare essentials to exist is quite frustrating and very demanding, to say the least. Priorities (shelter, food, health, clothing) normally come before luxuries (radio, television, newspaper, vehicle, etc.), and one should not falsely assume that just because you can afford it, the neighbors have it as well. Because of the deplorable condition of these close-to-welfare families, they certainly cannot afford for the Commission to further jeopardize, by senseless broadcast network consolidation or removal of various valuable local or national cross-ownership provisions, and subvert what minuscule broadcast outlets these outlined folks have come to so cherish. These people turn on the tube to relieve themselves of workplace aggravations and forget about stresses of their hectic world. **Free reception of over-the-air television and radio should never be undermined for these very reasons.** We have already experienced the trauma and destruction with national and local radio ownership regulation repeal since 1996, which that ridiculous remedy can and must be rectified and reversed through this rulemaking, if the conscientious Commission so divinely desires, as the public record alone in these dockets reflect the will of the people for correction and could clearly withstand even the tightest judicial scrutiny.

Hodson cares to relate one other relevant television testimonial before moving forward. The flamboyant fiasco described above should in no wise be foolishly fated upon local television licensees, regardless of deregulation lobbying pressure. These broadcasters rely heavily on network feeds and strip syndications to fill almost all their broadcast day. News and weekend public affairs are the extent of locally produced programming in the Las Vegas market, with smaller and rural areas fortunate to even receive that over-the-air. In 2002, Hodson witnessed the prelude to local television, if allowed to fully concentrate at either the local or national level. This example involves local stations KVWB (UHF Channel 21), now affiliated with the Warner Brothers Network, and KFBT (UHF Channel 33), the former local WB affiliate that now professes "independent" status. The latter facility claimed financial hardship and thus was permitted an LMA type of arrangement with the former, through the failing station clause, if not an outright buyout of the complete license, sanctioned by the Commission. As a result, repurposing between the two entities became quite routine. Syndicated strip talk shows, like Jerry Springer, Sally, Ricki Lake, etc., that were originally aired in morning and afternoon day parts on KVWB, would be rerun (same exact episode) on KFBT overnights. Dramas, situation comedies, and game shows were also included within the cross-programming strategy. About the only categories exempt were sports, for contractual reasons, and news, because neither station originated any within their program schedule. Hodson clearly foresees regretful and endless over-the-air local repurposing and recycled programming strategies, if broadcast owners are permitted to own several television signals in any single market, while repealing broadcast network's cross-ownership regulations would destroy traditional affiliate relationships and shake free reception television to its foundational core with disastrous results for the indigent families chronicled in the previous paragraph.

Hodson additionally utilizes a household delivery newspaper subscription ($15.00 monthly) for the *Las Vegas Review-Journal*. Originally conceived in 1926, the *R-J* has today more than 150,000 daily readers, and shares their publishing presses with the *Las Vegas Sun* via a Joint Operating Agreement, as do many major metropolitan areas around the country to achieve their "synergies". The *Sun*, started in 1950, is chided as the afternoon voice for Las Vegas, even though the main morning voice of the *R-J* handles the former's advertising, circulation, production, and marketing. *The Valley Times*, originally a tri-weekly from North Las Vegas, attempted to be a third daily in the early 1980's, but after less than a decade, they closed up shop.

Even though printed weeklies exist today, with perhaps a couple hundred readers at most, like the "newspapers" *Las Vegas Mercury* or *Las Vegas Tribune* and local *What's On* or *City Life* magazines, they could not effectively be considered a vibrant or virile voice vying within this particular desert market. Any broadcasting cross-ownership opportunities for these publishing entities would not enrich the community, but only attempt to alienate entrepreneurs earnestly entering, by condensing venues and consolidating voices.

Diversity, competition, and localism issues must continually affect the Commission's decisions on over-the-air broadcast regulations, since these three factors are currently regarded as the remaining foundation that traditionally embodies and motivates the "public welfare" (interest, convenience, and necessity) policy principle contained in the Communications Act of 1934. Congress and the U.S. Supreme Court have clearly given the Commission a righteous road map already, all staff has to do is faithfully follow directions to withstand judicial scrutiny. "The avowed aim of the Communications Act of 1934 was to secure the maximum benefits of radio to all the people of the United States. The 'public interest' to be served under the Communications Act is thus the interest of the listening public in 'the larger and more effective use of radio.' §303(g). The facilities of radio are limited and therefore precious; they cannot be left to wasteful use without detriment to the public interest." *National Broadcasting Co., et al. v. United States et al.*, 319 U.S. 190, at 216-17 (1943). "[T]he widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public." *Associated Press v. United States*, 326 U.S. 1, at 20 (1945). "It is the right of the viewers and listeners, not the right of the broadcasters, which is paramount." *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367, at 390 (1969). "The Court has recognized an interest in obtaining diverse broadcasting viewpoints as a legitimate basis for the FCC, acting pursuant to its 'public interest' statutory mandate, to adopt limited measures to increase the number of competing licensees and to encourage licensees to present varied views on issues of public concern." *Metro Broadcasting v. FCC*, 497 U.S. 547, at 616 (1990). "From its inception, public regulation of broadcasting has been premised on the assumption that diversification of ownership will broaden the range of programming available to the broadcast audience." *Id.*, at 570 and n.16. Justice Stevens concurring, states "The public interest in broadcast diversity - like the interest in an integrated police force, diversity in the composition of a public school faculty or diversity in the student body of a professional school - is in my view unquestionably legitimate." (footnotes omitted). *Id.*, at 601-02. "[T]he importance of local broadcasting outlets 'can scarcely be exaggerated, for broadcasting is demonstrably a principal source of information and entertainment for a great part of the Nation's population.'" *Turner Broadcasting System, Inc., et al. v. FCC et al.*, 512 U.S. 622, at 663 (1994) (quoting *United States v. Southwestern Cable Co.*, 392 U.S. 157, at 177 (1968). "[A]ssuring that the public has access to a multiplicity of information sources is a governmental purpose of the highest order, for it promotes values central to the First Amendment." *Id.*, at 663.

Generally, Hodson supports the retention and fortification of all the addressed (local radio ownership [47 C.F.R. §73.3555(a)], local television ownership [47 C.F.R. §73.3555(b)], radio/television cross-ownership [47 C.F.R. §73.3555(c)], newspaper/broadcast cross-ownership [47 C.F.R. §73.3555(d)], national television multiple ownership [47 C.F.R. §73.3555(e)], and the dual network [47 C.F.R. §73.658(g)]) regulations, plus strongly submits that these statutes be reinforced and restructured as noted supra. Hodson alternately recommends administrative and procedural codes be investigated and streamlined, if the Commission truly wants to be both more efficient and filer friendly toward the common citizen not represented by counsel.

Because of the astronomical and expansive inquiries contained within the everlasting *NPRM*, Hodson realizes under the appointed time allowed, something will be neglected. Just like after you have left for a vacation or business trip and are on the plane or 200 miles down the road, and then discover you did not pack everything that you really wanted to take. So with that thought in mind, Hodson hopefully shall respond to as many Commission questions as feasible, if not already within this instant Section, then casually through various comments and positional beliefs in the forthcoming five sections.

III. Media Ownership Working Group Studies Opinion

Hodson notes that certain concerned commentators wanted data, facts, and figures, up and beyond what was originally provided by the Media Ownership Working Group (MOWG) Studies. Understandably, the Commission is trying to utilize limited knowledgeable staff members in as diverse directions as possible for the MOWG project; however, the view expression disclaimer commonly present on the majority of these report title pages alone, can gather doubt and lend credibility to their possible subjective status. Well intentioned, in-house governmental agency papers can blossom with perceived prejudices, especially when various Commission staff blatantly reappear in several MOWG Studies. This may create a disturbing and disappointing development that seriously and credibly implicates the F.C.C. earnestly and eagerly "slow playing" their public interest duties. For the sake of fairness, Hodson will not "look behind the scenes" of these questionable studies, but instead evaluate each writing on just its face value merits. Reference ease shall be maintained by citing the author's page numbers where feasible, otherwise the application software's numbering methodology will be utilized.

<u>A Comparison of Media Outlets and Owners for Ten Selected Markets: 1960, 1980, 2000</u> by Scott Roberts, Jane Frenette, and Dione Sterns

Using only ten markets, out of almost 300 various Arbitron research areas, to develop an accurate methodology seems quite short-sided. Selecting just every 28th market, presents a meager two samples for the top 50 markets, and only 3.5% of total surveyed markets. The authors compare 1960 strongly with 2000, and deduce there is overall more outlets and owners in media. This positioning is skewed and cannot truthfully portray media realities, because by default, there is generally more of everything from forty years ago. The time factor should have sampled by each decade, at the very minimum, to analyze every five or ten year period, instead of twenty years between takes. Page 3 of Table 2 in the Acrobat file contained no data, while the New

York market claims 148 total radio stations in Table 3. How can that be true, when only 100 possible channels exist, and each facility must abide by separation requirements of §73.207 of the Commission's Rules? The most memorable gist in this study occurs in Table 4, where the cable penetration percentage numbers show only the State of Pennsylvania (Lancaster and Altoona) claiming over 80%. The other eight profiled markets depict an average of 41% of television homes receive their signals over-the-air and not through cable delivery, which is a statistic firmly in favor that traditional audience viewership methods should not be commonly ignored or plainly disregarded.

<u>Viewpoint Diversity in Cross-Owned Newspapers and Television Stations: A Study of News Coverage of the 2000 Presidential Campaign</u> by David Pritchard

The initial issue that caught Hodson's attention was in the introduction where the Commission displayed prejudice in 1975, by insisting some cross-owned facilities must divest one property or the other, while others were legitimately grandfathered, noting financial hardships or ownership patterns as justification. Other items that stood out were that the author *assumed* several "key" ideas to interpret data (page 5), and the frequent appearance of the Tribune Company, which had 40% of the cross-ownership study platform (page 7 - Table 1), although the author suggests from Table 2 (page 10-11) that Tribune results were statistically and politically uncoordinated. The discussion (page 12) starts out with, "Given the limited number of observations in this study, we cannot draw firm or sweeping conclusions about the implications of our findings." A grammatical error (page 13) states, "The data *to* not enable us to ascertain why...", and then only speculates several possibilities for the remaining paragraph. Although not detrimental to the overall study, endnotes #15 and #17 (page 17) were not uniformly consistent with the majority. Hodson is disappointed that the author omitted cross-ownership patterns for radio (page 16 - Note 11). A brief Journal Communication example (page 12) in the Milwaukee aural market, mentioned a strong pro-Bush stance. Since this *NPRM* implies to be all-inclusive, i.e. television, radio, newspapers, cable, DBS, etc., there should be no logical reasoning for cross-ownership radio data neglect, because morning and afternoon drive on most stations carry political and/or news slants that could surely warrant discussion and analysis within a similar study environment.

Consumer Substitution Among Media by Joel Waldfogel

In the final paragraph of the author's executive summary, Hodson finds fault with the statement, "...we can reject the view that various media are entirely distinct." One definitely cannot "hear" a newspaper, or "see" a radio broadcast. It is also often quite difficult to multitask television viewing and Internet surfing, because they each toll two senses, yet the penman addresses that adequately in several instances "...of substitution between Internet and broadcast TV," and "...certain media...compete...for consumers' attention." (Acrobat page 4). Throughout Part I, Section II, Theoretical Background, Mr. Waldfogel cites only his namesake's chronicles thirteen times within four consecutive pages, and five times in footnote 5 alone. Sounds either like flagrant personal publication plugs or lack of outside relevant research resources, while Section 3 earnestly tries to dispel this data diffusion discrepancy. Page 23 "liberally" suggests substitution relationships between radio listening and daily or weekly papers, which Hodson finds very difficult to digest, as previously addressed. Page 30 claims the average Internet person reports 3.97 uses, so Hodson then questions, why include nonusers? Part II, Section III, Substitution, focuses on not only the variety of Table descriptions and group breakdowns, but makes a valid point on localism on page 37. Part II Tables 4 & 6, notes that news-related items are underlined; however, Hodson found instead larger font and offset placement for these categories. This same Table 4 (Radio Format Use) stated Spanish label "var viety" as a subformat, but Hodson believes this to be just another of several typographical errors contained in this report. Common themes for this study were uncertain hypotheses and indirect evidence, with the author incompletely concluding that "...these questions will only be answered with additional research.", as he recommends further investigation.

Consolidation and Advertising Prices in Local Radio Markets by Keith Brown and George Williams

Although both authors reappear in several other studies, as outlined in Hodson's introduction (see Section I), they nevertheless defer to other reports and individuals throughout to bolster their positional beliefs. Romeo and Dick (2001) indicate "...that concentration within a local radio market's format may be meaningful for antitrust analysis." (page 4). Ekelund, Ford, and Jackson (1999) finds "...that radio advertising does indeed constitute an antitrust market." (page 5). Ekelund, Ford, and Koutsky (2000), also page 5, mistakenly found "no strong relationship between the sale price of radio stations and local concentration." Hodson (see footnote 11, supra) has already documented this fallacy for the Las Vegas radio market, and need not expound further. Table One (page 10) showed both local (47%) and national (739%) HHI percentages rising, while ownership dropped 26% over the same period. According to their chart graphic, the price charged by radio stations to advertisers increased 81% between 1996-2001, although the writers moderate that percentile to 68% for inflation. The authors "...recognize the limits on our data."(page 7), plainly "estimate" (four times on page 12 alone), and liberally admit to *adjusting values* to compensate for this or that. Regardless, their summations reflect "...that increases in local concentration modestly increase the price paid for local advertising by national and regional advertising agencies. In both models, an increase in the local HHI causes a small but statistically significant increase in the price of local radio advertising." (page 15). Page 17 implies that national radio conglomerates sell more ad time to national and regional agencies, while the messaging needs of local businesses suffer or are systematically neglected. In their conclusion, there was a noticeable statement contradiction. Page 18 reads, "Overall, we find that local consolidation appears to increase the prices paid by national and regional advertising agencies for local radio advertising.", but page 19 states, "At the local level, greater ownership by large national radio firms led to lower local radio advertising prices for regional and national advertising agencies." Hodson submits that a comparison of these sentences create confusion and are topically opposite, especially given that local consolidation in most markets are effectuated through greater ownership by large national radio firms.

The revised results, added on November 5, 2002, again heavily leans on the word "estimates", utilizing this term four times in just the opening notice. Hodson admonishes the authors for preparing a four-page annex full of riddled commands that mathematicians would reject, much less befuddled lawyers, legislators, or lost lay persons.

Program Diversity and the Program Selection Process on Broadcast Network Television by Mara Einstein

The executive summary (Acrobat page 2) suggests that programming diversity hasn't changed dramatically since 1966. Please view any television program archived from 1966 versus any show produced today. Although the technical and technological production aspects were obviously somewhat lacking during that era, the overall themes were generally non-offensive and definitely less aggressive. Commissioner Copps has even addressed these "excessive violence" and "lowest common denominator" factors on November 21, 2002.[17] With broadcast networks having syndication and immediate repurposing priorities to curb and recover costs, program quality and diversity will always be negligently compromised. Hodson has already presented positioning on its television viewpoints (see Section II., NPRM Response) and thus declines to elaborate further. Although the study's introduction suggests the Commission's Fin-Syn Rules were not effective for content diversity, these regulations certainly assisted independent supplier (source) diversity, and also marketplace diversity, as defined by the author. Hodson noticed many typographical and grammatical mistakes throughout this study as well. For instance, page 9 errs by stating, "...there has been a *stead* growth trend...", when the writer probably wished

[17]See:*Commissioner Michael J. Copps Calls for Re-Examination of FCC's Indecency Definition, Analysis of Link Between Media Consolidation And "Race To The Bottom"* (released November 21, 2002).

to convey "steady"; page 12 states "then" but means "than"; page 13 offers several punctuation oversights involving year usage; page 24 repeats the word "the" consecutively; footnote 6 (page 27) reads, "...by 1990, that would restriction would be eliminated."; and footnote 7 (page 28) has "...a networks...", just to illustrate a few. The writer also claims (page 14) repurposing is only limited to dramas, yet Hodson has noticed this disturbing national recycling trend in other programming categories, like movies, documentaries, game shows, and sit-coms. Page 17 offers contradictory positions on diversity by stating, not once, but twice, that "...diversity increased after the repeal of fin-syn.", and "...diversity initially dropped in the years immediately following the rules' repeal..." Page 21 initiates the horizontal methodology discussion by finding the sentence, "This is an important distinction from a horizontal index." somehow out of place in plain reading. Table 2 (page 26) lists network program suppliers from three different years. The chart's significance was acknowledged by the author while surveying the "top 20" suppliers. There were only 15 program producers available in 1995, and by the time 2002 data was required, only ten existed to complete this table. Table 4 (page 31) appears to somewhat nullify these findings by listing 15 suppliers, excluding the movie category and neglecting to count Fox and Warner Brothers twice. Nevertheless, this analysis, if indeed correct, would indicate downhill diversity for independent program suppliers.

The second part of this paper, deals with the program selection process from the network executive's perspective. Although Hodson discovered more grammar and punctuation errors throughout, and noticed misconstrued words or incoherent sentence flow very prominent within various quoted passages, the writing overall gives a good breakdown of the basic process and terminology, even knowing some of the dollar amounts are exaggeratedly inflated. Page 5 mentions that programming executives did not feel "...television is of low quality..." when questioned. Why would they? McDonald's managers also swear by their hamburgers, otherwise they would find themselves at Wendy's or unemployed. Today's prime time schedule, the Golden Arches, and the Golden Age of Television, are indubitably three distinctly different concepts, no matter how they are viewed. Adding testimony from Warren Littlefield, Flody Suarez, Matt Williams, Stephen McPherson, Ted Harbert, Paul Haggis, Rob Burnett, and several others, gave the program selection process the human touch, that by nature is prone to mistakes or even deception. It was apparently evident that in-house production clearly has preference in the choosing of network prime time show decisions. For those very few outside production studios that remain, "Giving a piece of the show to the network has become a normal way of doing business since the repeal of the fin-syn rules." (page 24). Page 20 quotes McPherson as candidly sharing that, "...they [the networks]...use fake numbers..." Hodson finds $10 million (page 21) to finance a single pilot, an unbelievable sum which surely must fall into the fake number arena just noted. The 1997 *ER* license renewal story (pp. 21-22), where NBC reportedly paid $13 million an episode, outright demonstrates another disturbing case of network executive judgment lapse. Can you imagine "intelligent" individuals like this in charge of controlling what the general public watches on their TV screens? Could this be why violent dramas, deceitful relationships, dysfunctional households, and other treacherous acts, are the constant examples for the nation's weak, meek, and young? Haggis explains it by declaring, "...I guess we're just stupid." (page 31). Audience pilot testing and research qualifies as television programmers scapegoat, when they need to justify the lack of ratings or their offbeat decisions (page 34). Due to financial reasons, the author notes networks selling syndication earlier (page 34), repurposing faster and more frequently (page 36), and almost every producer seamlessly aligning themselves with a broadcast network or major studio just to "stay in the game" (page 36). Page 39 could have easily done without the expletive and still earnestly retained the essence of Littlefield's quotation. Along that same line, given the (below) average television show's final presentation to the public and the heavy network involvement and oversight in program content and direction (pp. 38-45), Hodson humorously thought the network's useless and ineffective Standards and Practices (footnote 16) department could be appropriately renamed "Storylines and Perversions". In "Blanding the landscape" section (pp. 45-49), the writer attributes middle management and selling marketers for bureaucracies and certain programming decisions, while other interviewees state their personal television watching preferences.

Concluding, the author comments with "No one seems particularly pleased with the current system and several participants expressed concern[ed] about the effect[s] of the current system on program content." (page 50).

A Theory of Broadcast Media Concentration and Commercial Advertising by Brendan M. Cunningham and Peter J. Alexander

The executive summary highlights that "Our main finding is that an increase in concentration in broadcast media industries may lead to a decrease in the total amount of non-advertising broadcasting.", and "We also...demonstrate a positive relationship between consumer welfare and the number of firms in the broadcast industry." (Acrobat page 2). Section II (pp. 3-5) discusses various archived broadcast theory with their respective authors, while Section III (pp. 6-14) examines consumers, advertisers, and broadcasters, each within their own subsection. Hodson numbly noted that the authors used 21 different "assumptions", 34 various mixed formulas, and countless algebraic variables, within just this section alone. Hodson seriously doubts that the Commission and their legal staff, common readers, and broadcast owners, really care for a maze of mathematical methodology when what most matters is writing words and solving shortcomings. Can you honestly say in your heart, that you utilized one of the authors' formulas from this study for any practical purpose? Or did you instead just notice the intense variables, recall back to your college calculus days, and then decide to move on like Hodson? Section IV (pp. 14-18) surveys broadcast behavior as related to concentration under two different scenarios, while Section V (pp. 18-22) looks at media consolidation from the consumer welfare perspective. Section VI (pp. 22-23) offers the authors' condensed conclusions, and Section VII (pp. 24-25) presents an additional five formulas that any hardcore number cruncher just couldn't live without.

The Measurement of Local Television News and Public Affairs Programs by Thomas Spavins, Loretta Dennison, Jane Frenette, and Scott Roberts

Initially, Hodson was astounded and amazed that this short eight page Acrobat file, even though there were five related table appendices, two of which are only one page in length, needed four staff members to create, half of whom reappear in other MOWG studies. The executive summary highlights network owned and operated (O&O) facilities achieve more award recognitions, plus produce more local news and public affairs programs than their market counterparts. Cross-owned television/newspaper combinations, according to the authors, "...experience noticeably greater success *under our measures* of quality and quantity..."(italics added). The Sub-Groups of Affiliates in both tables appear quite liberal toward the newspaper affiliated category, almost to the point of being unbelievable. The measurements this paper relies on are local news ratings, station output, Radio and Television News Directors Association (RTNDA) awards, and the A. I. DuPont Awards. Hodson had concern of the validity and accuracy of this writing with suspect statements like "We note that this paper is limited...and does not attempt to explain the basis for any differences..." (Acrobat page 3), and "...[W]e wish to note some limitations and topics for further work. Errors of computation and classification can be made despite our best efforts. [E]xtensions or modifications to the methodologies employed in this paper may permit additional or contrary findings to those discussed herein." (Acrobat page 7).

<u>Consumer Survey on Media Usage</u> by Nielsen Media Research

The opening portion of this paper is a basic phone research questionnaire outline (Acrobat pp. 2-14), which Hodson has no particular feedback to offer. Tables 001-098 (pp. 1-114) display respondent's answers to the instant survey, which again Hodson lacks any riposte comments to impart. The final eighteen pages of this report contained items such as: methodology description, disposition sample, limitations, and permissible study uses. Six of these pages were section separators, and thus valueless for extracting any fruitful information. Under Part D. Data Collection (page 6), Nielsen notes up to eight attempted callbacks were given to contact each respondent, yet the overall sample disposition in Section II (page 10), claims only 28.4% (3136 of 11029) were completed interviews. Allowed that many opportunities, Hodson believes the success rate for touching base with selected interviewees should have been higher. According to their numbers, the total non-completed and non-contacted categories combined, twice exceeded as many as did actually complete the survey. Hodson can understand that 8.15% (899 of 11029) of the attempts reached an answering machine, but again given eight callback tries, that percentage should be lower. Perhaps one could justify the unsuccessfulness of the overall disposition, through the adamant opposition of telemarketing calls, which consumers may have mistaken Nielsen's interviewers for. Part E. Data Weighting (page 7), almost made Hodson have supra flashbacks for Brendan M. Cunningham and Peter J. Alexander's work in the MOWG Study, A Theory of Broadcast Media Concentration and Commercial Advertising. Section III (pp. 11-14) is Nielsen's cover-all-bases, get-off-the-hook, we're-not-responsible section, and easily reminds Hodson of *Monopoly's* "Get Out of Jail Free" card. This legalistic portion describes sampling and non-sampling (non-coverage, non-response, response, processing, recall data) errors, and if anything was inadvertently overlooked, Part D. Liability (page 14) should earnestly clean up those mistakes. It's always comforting and supportive to have an outside research company conclude with liability and permissible use (Section IV, pp. 15-16) clauses. Due to older workstation limitations, the Excel dataset added on December 4, 2002, which accompanied this study, could not be correctly downloaded and viewed, thus Hodson can not comment and must refrain from addressing this additional material.

Radio Market Structure and Music Diversity by George Williams, Keith Brown, And Peter Alexander

All three of this author trio do double duty, and reappear in at least one other MOWG study, as outlined in Hodson's introduction. The authors acutely acknowledge this fact by including six assistants to diversify the researcher reservoir. Nevertheless, the Commission's Media Bureau staff explain within their executive summary (page 1) that they have uniquely developed a product diversity measure, yet in the introduction (page 2), this measure only "estimates effects" of concentration, having "tentative results" that "make no definite statement." The introduction also summarizes the effects of the 1996 Act on national and local radio ownership limitations. Immediately following, a review of various broadcast theory writings, from Steiner (1952) to Berry & Waldfogel (2001) seemingly contradict or dispute what each have speculated (page 3-4). One format factor that always should be top of mind, especially in this report which utilizes Radio & Records (R & R) information, is that not all same-named formats are ever created equal. The authors circle around this point on page 4; however, without comprehensive playlists, making assumptions based upon contrasting songs, exactly five years apart, from certain facility's top 10 musical selections or additions list (page 10), is considered very substandard methodology. Hodson was previously employed by a R & R reporter station, and the publisher's playlist usually never matched our music director's top selections. With these type of discrepancies common, it is understandable to recognize R & R as a record company's venue rather than a radio broadcast station's. Since record promoter's are certainly forward about "comping" stations with plenty of the latest "format" releases, in cassettes or compact discs, for mention of specific weekly "adds", whether actually aired or not as stated, it's no surprise that many formats are deep in recently released recordings (within the last 15 months). It becomes a perceived "win-win" situation for all but the duped listeners. The reporting station wins because they get an endless supply of free remote giveaways and other assorted gratis gifts, plus weekly industry exposure in a "trade pub". The record label wins because they can "claim" their recordings have been added at this station or that, thus enticing potential stations that they are not affiliated with to possibly air the song cut. Some of these other smaller similar formatted stations, not really knowing the music and wanting to "keep up with the Jones'", decide to play the music mistakenly thinking that's what everybody in other markets consider popular or preferred. The authors list certain general limitations of R & R (page 5), but they don't cover what music directors already know. Page 6 and the Technical Appendix (pp. 19-20) contained various algebraic formulas and equations, while Table 1: Unique Number of Songs by Formats (pp. 8-9) was divided; the title on page 8, then some text, then the chart at the bottom of page 9. The first sentence on page 11, the authors use 6.51 songs for 1996, yet for 2001, they state 5.53 "times". Maybe Hodson missed something on this, but consistency would dictate that perhaps the word "times" actually refers to the term "songs" in both instances. The authors claim that they will neglect format pair distances of 9.5 and above (footnote 3), however, in Table 3 (page 12) Hodson observes the Adult Alternative/Hot Adult Contemporary format pair for March 1996, has an average distance of 9.54, if their information is correct. This oversight must be in the 1%, as the authors promote 99% statistical confidence (see page 11 and footnote 2) several times within their report. The conclusion is peppered with speculations and assumptions, which make Hodson question the overall integrity and accuracy of this report. The 1160-page, separate but associated, Excel (Microsoft Word) dataset added on November 5, 2002, contained nothing extraordinary worth noting or commenting about.

<u>On the Substitutability of Local Newspaper, Radio, and Television Advertising in Local Business Sales</u> by C. Anthony Bush

The executive summary (page 3) acknowledges that this study's results cannot be considered conclusive, blaming radio and newspaper measurement error limitations as the culprit. Hodson however, concurs with the author's belief that there is weak substitutability between local media, and stands by the established theory that each local media venue is quite particular, separate and distinct from one another. Local business advertising, regardless of market, realizes the economically different pricing tiers for newspaper, radio, and television, in ascending financial order. Furthermore, both the services and audiences each medium offers to its messaging clients, is very unique and selectively purposeful. The writer's decision to neglect cable, direct mail, and billboards from this study was a wise one, as the outcome would be too broad and the paper's focus would be distracted from its intention. Pages 4-7 highlight shortcomings and conclusions of past written research on this subject, which Hodson found as common in many of the other MOWG studies as the view disclaimers, addressed supra, during commencement of this section. One sentence near the bottom of page 5 states "exit", but could have meant "exist", and Hodson also noticed spacing between many words were not uniform throughout this report. The Ekelund (1999) et al. study, according to the author, "...concluded that the radio market constitutes an antitrust market." (page 6). Under the theoretical framework section (pp. 7-9), many assumptions are made, including a hyperbolic hypothesis that Firm A, which buys television, also buys some radio and some newspaper (page 8). Although some firms may purchase a "mix of media", Hodson submits that this type of scenario is the exception rather than the rule. Another error within the same paragraph is the word "know", which really should be "known" for better readability. The equations and formulas on pages 8 and 9 may look spiffy, but if the author's average audience can't remember the Linear Expenditure System, or never had their dose of calculus, the variables, regardless of simplicity, become moot. Speculative suggestions and endless estimates within the conclusion and elsewhere, combined with admitted data limitations, give Hodson uncertainty about the overall validity of this survey.

<u>Radio Industry Review 2002: Trends in Ownership, Format, and Finance</u> by George Williams and Scott Roberts

This surprising study is again authored by a pair of repeat MOWG offenders. The executive summary (pp. 3-4) highlight effects of the 1996 Act on national and local radio ownership levels, plus updates prior Commission industry reviews from 1998 and 2001. Several issues immediately addressed are worth mentioning. Ownership levels dropped 34% between March 1996 and March 2002, while the larger group owners, namely Clear Channel and Cumulus, went from no more than 62 individual licenses in March 1996, to over 1156 and 251 (respectively) station licenses nationwide by March 2002. Their figures also show the average market's top group owner possesses 47% of the revenue, while the top two corporate raiders grabbing an incredible 74% of the market share. The number of formats have declined in recent years in larger markets, and radio listeners have dropped off since 1998. Their final summarization depicts ad rates have increased almost 90% since 1996, with publicly traded radio companies still carrying very heavy debt loads, contributing to volatile stock market valuations. The overview (pp. 1-2), reiterates the 1996 Act and its ownership changes, then briefly outlines the remaining paper's sections. Section 2 modifies BIA Master Access database information relating to proposed transactions, local marketing agreements (LMA), the News / Sports format, and noncommercial / commercial station statuses. The writers then approximately break down the ownership decline annually since 1996, claiming about 20% of all radio stations have yearly changed ownership since the 1996 Act was passed. This has resulted in the number of owners with 20 or more individual licenses doubling (from 25 to 50) over the last six years. This section concludes by giving national totals for the top five radio conglomerates. Section 3 gives an Arbitron overview and explains the associated charts are "loess" smoothed to reveal trends. On page 6, the authors mistakenly interpret 93 of 285 Arbitron markets as 23 percent, when actually it figures to be 32.63%. This corrected percentile reflects how many rated markets where just two group entities control over 80% of market advertising revenue. Very dismal indeed! Section 3.2 addresses ownership diversity changes, Section 3.3 examines format diversity changes, and Section 3.4 discusses new satellite radio service developments. Pages 9-12 graphically display Charts I-IV, while pages 21-29 depict Charts V-XIII. Section 4 (pp. 13-14) concentrates on the financial performance of the radio industry, noting Standard & Poor's (S & P) Compustat database limitations on smaller broadcasters and other criteria. Sections 4.1-4.6 (pp. 14-18) explain the various end-of-report S & P benchmark charts and certain accounting formulas in lay person's terms, excusing the return calculation being separated between pages 18 and 19 (see footnote 24). Section 5.1 (page 19) notes radio listener trends, declining one percent annually since Fall 1998, while Section 5.2 (page 20) spotlights advertising rate trends, increasing almost 90% since March 1996, as the consumer price index rose just 16% in contrast over the same period of time. The 38-page Excel (Microsoft Word) document contained appendices A through F; however, there was nothing particular or extraordinary to which Hodson needs to expound.

<u>Broadcast Television: Survivor in a Sea of Competition</u> by Jonathan Levy, Marcelino Ford-Livene, and Anne Levine

This Office of Plans and Policy Working Paper #37 starts off with a couple, of eventually many, noncritical grammar usage, misspelling, and punctuation, errors. On the 2nd page "i", yes - there are two, "The authors would like to thank *then* numerous staff...", instead of the correct word "the". The two-page contents (pp. iii-iv) were set up quite nicely, but the tables outline (page v) contained semicolons or periods instead of colons for identifying Tables 20, 22, and 23. The introduction on page 1 states "...no full power station has gone dark." This representation is not accurate, unless the authors neglected or forgot the term "permanently". In the Las Vegas market, KBLR Channel 39 signed on as a full power UHF television station, broadcasting a format of back-to-back movies that did not survive. Within a six to eight month time frame, the station went dark due to lack of revenue and community support. The station remained silent for quite some time, until another entity finally came along to program the valley's first all-Spanish television signal, networking with Telemundo for the bulk of the broadcast material. Table 1 (page 4) could be more convincing if the 2010 projection column was omitted, plus correcting the typographical error of 14.1.0% for the 1975 "Cable+Sat. Subs/TVHH" percentage figure. Many people have difficulty just trying to assume what next year will bring, must less predicting seven years into the future. Table 2 (page 6) does not naturally reference its base unit, in other words, without reading the text on the preceding page, one may not realize the authors figures are in millions of dollars. Section III (page 8) states 85% of households subscribe to nonbroadcast service, and on page 22 the Multichannel Video Programming Distributors (cable or Direct Broadcast Satellite) claim "...86 percent of US television households...", yet Table 1 data skeptically conflicts with this information, suggesting a combined (cable+satellite) subscription percentile of only 82.7, a difference of up to 3.3%. Adding to this same discrepancy, page 11 notes "...no more than about 80%...", which leads Hodson to firmly believe if any of these four guesstimates are even close to correct. Page 9 finds the authors generally promoting the errant speculation that "...many of these media may serve as substitutes for one another.", while footnote 14 counters and admits "...substitutability among adverting media is beyond the scope of this paper...", and refers the reader to other material. C. Anthony Bush's MOWG contribution, chronicled supra, seems quite at odds with the instant study's position on this issue. Table 4 (page 13), Table 5 (page 14), Table 6 (page 15), and Table 9 (page 21) title headings were structurally intermingled within their respective charts, but could be possibly attributed to Hodson's downloading into Microsoft Word '97, application software which is outdated by more than five years. Page 28 states, "An advertising industry compilation indicates that the big four commercial networks increased hourly commercial minutes...to an average of nine minutes and three seconds." (see also footnote 42). Including local avails, Hodson has routinely timed network broadcast, cable, and satellite commercial matter in excess of 14 minutes per hour, exceeding the quota this study puts forth. Furthermore, many consumers cannot distinguish or do not care if a commercial is national, regional, or local in nature. All the untrained eye usually sees is a four or five minute block here and there, over several times, throughout every viewing hour. Footnote 47 (page 30) relates the big four have affiliate numbers somewhere between 176 to 213, which creates a margin of error factor of 37, or anywhere from 17.4 to 21 percent. This percentile range appears abnormally high for this type of estimate, even if considering the network company's "staff sources" were not errantly mistaken. Another controversy develops concerning network compensation numbers. Page 29 reads, "In 2000, network compensation accounted for 4.3 percent of net revenues on average of affiliates of ABC, CBS, and NBC.", yet page 31 claims, "In 2000 these [network compensation] payments averaged 3.2 percent of net revenues for big three affiliate stations." Is Hodson missing mixed message meanings, or is this just more mingled mischievous misinformation? More typographical oversights were noted; on page 37, where the writers have "195-2000", instead of the more accurate "1995-2000", and on page 44, as the authors incorrectly abbreviate video-on-demand as both VOD & VCD. Table 21 (page 41), Table 22 (page 46), Table 24 (page 51), and Table 32 (page 131) all possess the same year 2010 projection potholes as Table 1, discussed above. Hodson agrees with the essence of footnote 84, that "...median household income has a direct relationship to [consumer cable service] demand...", even though the included example was poorly phrased with, "...as this variables increases..." (page 49). One of this study's brighter notes is Chapter VI, which clearly differentiates HSD (C-band) from DBS (Ku-band), as there is a primary distinction deeper than the satellite dish size or the frequencies occupied. Utilizing the authors representation of users and subscribers from note 2 of Table 24, no Ku-band "users" exist. In other words, unlike HSD large dish consumers, if you have DirecTV or Echostar type satellite receiving equipment, but do not choose to subscribe with their service, you will not receive any, and cannot manually adjust for, unscrambled video or infamous foreign "backhaul" feeds amongst the "sky birds". Footnote 102 (page 56) should reference cable in Chapter V, not Chapter VI; footnote 167 (page 69) has "twp", but obviously meant "two"; and footnote 224 (page 81) is missing the right parenthesis that should enclose the year 2001. The second paragraph in the "Overbuilders" section (page 64) appears to lose continuity by ending with the word "nevertheless" and a comma, with no further thought expressed. On page 67, a run-on sentence in the first paragraph would flow better with "consistently called", opposed to the currently chosen clause. Table 30 (page 82), a consumer HDTV survey, was suggestively slanted in several situations. First, except for the movie premiere and two award shows, all rows of reasoning categories were geared toward sports. Second, the columns, although the numbers differed, appear divisionally intermingled. In other words, as an example, can one truthfully distinguish between a "likely HDTV buyer" and a "potential HDTV buyer"? Chapter VIII covers many issues and developments of DTV, yet avoids one critical component. Because of the shift in spectrum usage, current television tuners would become obsolete without converting adapters, and the common viewer is thus left in the dark. Corporate electronic retailers should soon concentrate only on selling DTV receivers, in order to effectuate an expedited transition, much like video rental outlets have earnestly, and in some cases almost completely, phased out prerecorded analog VHS tapes in favor of digital DVD discs, forcing consumers to make that home theater choice. Along these same lines, this study and the Commission have wrongfully assumed that DTV and HDTV demand is increasing exponentially, when in reality, many television consumers just want a few extra viewing channels above what they get locally, without ghosts, snow, or fumbling with antennas. There will always be those that desire to be on the "cutting edge" of technology, but one must remember, in order to be successful with fresh innovations, a manufacturer must sway more than a low number of casually curious consumers. Much attention was given to personal video recorders (pp. 96-100), but this equipment reminds Hodson of several other promising advances noted in Working Paper 26, that over a decade later still have not fully come to fruition, even with increased and improved computerized assistance. When all is said and done, radio frequency ATV reception still must contain an analog waveform carrier, to get the digitally compressed packet streams moved through the atmosphere, from transmitter to receiver in a complementary fashion. The extreme example in Chapter IX (page 102) between Viacom and Proctor & Gamble, strongly chronicles the sad state of the general television (or radio) industry, whether standard broadcast or cable network, and why independent stations cannot effectively compete in an overwhelming cross-platform environment as this scenario describes. Moreover, consolidating advertiser accounts and leveraging prices in an inner circle may "eliminate redundant costs and inefficiencies", which truthfully translates into less personnel paychecks and other staff benefits, but larger labor layoffs for unemployment to handle. Pages 108-109 errantly lacks word cohesiveness by stating, "...e-commerce, where lets consumers purchase...", along with several wayward prognostications for 2007, almost four years into the future. The authors on page 110 quote the Commission's *Children's Television Report and Policy Statement,* 50 FCC 2d 1 (1974), that children cannot distinguish conceptually between programming and advertising. If this philosophy stands true, Hodson contends that it would be reasonable to conclude then that these same children may also have difficulty conceiving the general separation between programs of fact and programs of fiction. Hodson also has great concern regarding children's viewing habits and programming strategies, knowing that the television has become the modern "babysitter of choice" for busy or absent parents. When some adults treat various situation comedies or dramatizations as very realistic, how much more so shall impressionable five or six-year-olds believe what they are viewing as anything else but the truth? It should be no surprise that today's influenced youth are imitating their TV icons and idols by challenging the laws of God and man in ever growing numbers. Another of many typos occur on page 111, where the authors state, "...informational needs of children ages 16.", instead of "ages 1-6"(footnote 362). Page 112 brings up privacy issues without really addressing anything remotely substantial. Commissioner Copps better presented a polished professional position, when writing under the section entitled, *Importance of Privacy Safeguards.*[18] He states "Telephone carriers...know not only the phone services we purchase, but also personal information such as who we call, how often, and for how long. And in a converging communications industry, these same companies now, or may soon, also be able to track what Internet sites we visit, who we e-mail, what cable or satellite television programs we watch, what wireless phone calls we place, and even our location as we use our cell phone." Add to that provisions from the USA Patriot Act, pushed through Congress in late October 2001, when many lawmakers still had fear and "resolve" on their minds, and a sobering shroud now envelops our basic privacy freedoms. Although disguised as terrorist prevention and national homeland security legislation, the American Civil Liberties Union and other organizations have pointed to various loopholes within this atrocious Act that allow FBI and CIA, amongst other governmental agencies, to invade privacy rights of long-standing or naturally-born United States citizens that are fantastically far from any minute evidence of suspected terrorist type activity. Without proper judicial oversight, law-abiding Americans can currently be subject to domestic FISA wire taps, Internet surveillance, secret searches, and/or intelligence gathering from churches, libraries, schools, banks, hospitals, travel agencies, and other businesses. This is eerily reminiscent of early 1950's "McCarthyism", whereby Senator Joseph McCarthy

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[18]Statement of Commissioner Michael J. Copps, *Telecommunications Carriers Use of Customer Proprietary Network Information (CPNI) and Other Customer Information, et al*, CC Dockets No. 96-115, 96-149, 00-257, Third R & O and Third FNPRM, FCC 02-214 (adopted July 16, 2002). See also: *USA Patriot Act*, Pub. L. No. 107-56; *Red Channels: The Report on Communists in Radio and Television* (New York: Counterattack, 1950).

shamefully wielded his political power to head an anti-Communist blacklisting movement against various military people, Government staff, and media personnel, which was without merit or substance, but nevertheless endured several agonizing years before finally being fraudulently exposed. About fifty years later, instead of pointing the stereotypical finger at someone and claiming, "You're a Communist!", now it has become, "You're a terrorist!" A person can be a prudent protestor or a diligent demonstrator for a worthwhile or charitable cause and be classified falsely as a domestic terrorist under the overbroad Patriot Act. A "person of interest" no longer refers to just Washington politicians or Hollywood celebrities, but to any individual that is being watched and profiled indiscriminately. Another similar somberly sidenote to earnestly promote and ponder, Hodson's dictionary[19] defines the ever-prevalent, post-9/11 word of "resolve" (i.e. America's resolve, common verbiage in many of current President Bush's speeches, alongside other diplomats and bureaucrats' written rhetoric) primarily as: dissolve, melt, to break up, separate, to change by disintegration, to reduce by analysis, etc. Secondary meanings of this term may be more appropriate and create less controversy for its audience, but ghost writers must beware of double entendres that can cancel candidate's careers convincingly. Moving forward with the instant P & P Working Paper, Chapter X duplicates Mara Einstein's supra study, although in much less detail. Page 116 is missing "of" from, "...pool together some the costs...", while page 123 omits "to" from, "...networks tend attract the largest..." Page 119 notes Tollin/Robbins Productions, a former independent program producer, being bought out by Clear Channel Communications, which is hardly any surprise. Page 127 mentions the "Carton Network" instead of "Cartoon Network", under the Children's Programming passage. Page 128 continues with several more typographical errors; under Quality vs. Economy, the authors state "...a certain amount quality of programming...", which would be much more cohesive if the two words, "quality" and "of", were reversed. Under Brand Extensions, while listing the Discovery Channel's derivative networks, Hodson finds "*Discover* Home & Leisure" within the fallible

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[19]*Webster's New Collegiate Dictionary* (Springfield, MA: G. & C. Merriam Co., 1976), pp. 985-86.

roster. More of the same screw-ups within the bottom paragraph of page 129, where "cabvle" describes Viacom's other non-broadcast network holdings, and a period, not comma, exists between AOL Time Warner's Headline News and the Cartoon Network holdings. The Comparative Expenditures subsection (pp. 130-132) "estimates" a total of fifteen times throughout, and "assumes" four times on page 130 alone. Page 132 refers twice to "table 38", when there are only thirty-two tables contained within the entire report. The last paragraph on this same page then misspells "moreover" as "mroeover", while footnote 444 states "some" instead of the more appropriate term "sum". The very excessive 447 footnotes, if you consider this study at 139 pages in length, would equate to a modest above average of 3.22 notes per page; however, many of these idem references were revoltingly repetitious. This working paper's multiple mistakes are not inclusive and Hodson truly does not desire to be a petty proofreader, but by bringing to the forefront many of these diverse discrepancies, it proves particular points. Namely, that Hodson cares enough to thoroughly meditate on the material presented, and descries enough to dissect the details. It also casts certain doubt that the authors, without rechecking the large number of common grammar and language misgivings mentioned, may have additionally overstretched or misinterpreted facts, figures, and formulas that are much more difficult to discern at first or second glance. Chapter XI concludes by acknowledging the various shortcomings in its predecessor, Working Paper #26, yet neglects addressing its own inherent inadequacies. For a Working Paper containing so much potential information and supposedly so expansive and complete in both size and scope, it is quite inexcusable that better proofreading oversight was not implemented before this study's release to reduce its repetitive repugnance.

IV. Senate Bill 2691

Senate Bill 2691 ("Bill"), introduced during the 107th Congress by United States Senator Russell D. Feingold (Democrat - Wisconsin), proposed to amend the Communications Act of 1934, to facilitate an increase in programming and content on radio that is locally and independently produced, to facilitate competition in radio programming, radio advertising, and concerts, and for other purposes. This unpretentious Bill, presented on June 27, 2002, and cited as the "Competition in Radio and Concert Industries Act of 2002", was read twice on the Senate floor, then bureaucratically referred to the Committee on Commerce, Science, and Transportation, where it has languished due to inactivity. Hodson will highlight various aspects of the actual Bill, and further examine pertinent portions of Senator Feingold's Congressional Record,[20] regarding his preface and introduction of S. 2691.

In Section 2(a)(2) of the Bill, Congress finds deregulation of ownership rules has materially altered the radio broadcast industry and resulted in radio station ownership concentration and corresponding localism reduction that decreased by 25% the number of radio station owners, from 5,100 in 1996 to 3,800 in 2001. Findings in §2(a)(7) and (8), promote increasing the presence of independently-owned and locally-produced radio content, and strengthening diversity of voices provided through radio media. Subsection (11) admits the concentration of radio station ownership and the corresponding localism reduction following the enactment of the Telecommunications Act of 1996 has exceeded that intended by Congress, while Subsection (14) finds the top ten groups account for almost half of all radio station industry revenues. Various monopolistic and anti-competitive practices, as found throughout other subsections of the Bill, when coupled with the increased concentration of radio station ownership, have the potential to reduce music diversity and other material made available to the American public over radio as stations make programming decisions for reasons other than licensee's bona fide determination whether the material serves the public interest

[20] 148 Cong. Rec., S5469-71 (June 13, 2002), and S6252-53 (June 27, 2002)

[§2(a)(16)]. In Subsection (20), the Bill finds a broader diversity of voices through radio media sources promotes the Constitution's First Amendment right of the people to receive a wide range of information. The Bill's purpose, as defined in §2(b), is to facilitate: better service by radio stations to the local communities they are licensed to serve, including an increase in the amount of radio programming and content that is produced by local and independent sources; an increase in competition in radio programming and content, radio advertising, concert venues, and concert promotion; and more diversity in radio programming.

Section 3 of the Bill suggests license revocation as a means to prohibit using radio to reduce public access to diverse radio and concert programming and content. Section 4 would enhance scrutiny of further radio consolidation by (a) regulated hearings for certain applications with anti-competitive national audience reach, (b) prohibition on local market share and agreements that permit Commission assignment or transfer applicants more than 35% of either the local radio market's audience share or advertising revenue, and (c) refusing any upward revision for multiple radio station local ownership limitations, which shall be excluded from §202(h) biennial review requirements. Section 5 requires within one year, a review of privately-controlled audience measurement systems, to determine if the commercial radio industry manipulates such systems to define local radio markets, and develop uncovered, small, and rural area market measurement mechanisms. Section 6 addresses the modification of attributable interest in radio stations and limitations on Local Marketing Agreements (LMA), such that within one year of the Bill's passage, the Commission shall prescribe regulation reporting requirements for any special relationship contract between licensees or permittees, and place an annual limitation cap on certain LMA's. Another one year after enactment date is found in §7, whereby the Commission would modify 47 U.S.C. 317 and 508 to prohibit any radio station licensee from use of control over broadcast matter to extract money or any other valuable consideration, directly or indirectly, from record companies, artists, concert promoters, or other representative entities and agents. Section 8 notes suspension or waiver limitations and court decision treatment of the Bill's provisions, while Section 9 would require related annual reports